

1 **UNITED STATES DISTRICT COURT**

2 **DISTRICT OF NEVADA**

3 YOSVANY BOLOY HERNANDEZ, an  
individual, NELSON OLMO  
4 SANTIESTEBAN, an individual, JERRY  
RICARDO PEREZ CONTRERAS, an  
5 individual,

6 Plaintiffs

7 v.

8 JAMES RIVER INSURANCE COMPANY,  
a foreign corporation, DOES I-X, ROES XI-  
9 XX,

10 Defendants

Case No.: 2:21-cv-01783-APG-VCF

**Order Remanding Case for Lack of  
Subject Matter Jurisdiction**

11 Defendant James River Insurance Company removed this action on the basis of diversity  
12 jurisdiction. ECF No. 1. I ordered James River to show cause why the case should not be  
13 remanded because it did not appear that the amount in controversy requirement in 28 U.S.C.  
14 § 1332 was satisfied. ECF No. 7.

15 James River responded by providing proof that each plaintiff received \$10,000 from the  
16 tortfeasors' insurance. ECF No. 7-1. The plaintiffs sent James River settlement demand letters in  
17 October 2019, which identified \$33,593.52 in medical expenses for plaintiff Yosvany Boloy  
18 Hernandez (referred to as Boloy in the letter), \$18,970.00 in medical expenses for Nelson Olmo  
19 Santiesteban (referred to as Olmo in the letter), and \$24,628.62 in medical expenses for plaintiff  
20 Jerry Perez Contreras. ECF No. 7-3 at 3, 5, 7. The plaintiffs' counsel sent another demand letter  
21 in December 2019 in which the plaintiffs collectively sought the \$1 million limit under the James  
22 River policy with no support for the requested amount. ECF Nos. 1-1 at 4; 7-2. It is evident that  
23 this was not a reasonable estimate of the plaintiffs' claims because the plaintiffs' counsel sent

1 another demand letter on September 1, 2020, in which the plaintiffs offered to settle their claims  
2 as follows: \$100,652.76 for Boloy, \$56,815.86 for Olmo, and \$73,774.86 for Perez Contreras.  
3 ECF No. 7-4. That letter contained no backup information to support the requested amounts.  
4 The defendants have presented no evidence that between the October 2019 settlement demand  
5 and the September 2020 demand, any plaintiff incurred additional medical expenses.

6 Accordingly, the information before me shows that the plaintiffs have incurred medical  
7 expenses in the amounts of \$33,550.92, \$18,938.62, and \$24,591.61, respectively, and received  
8 \$10,000.00 each from the tortfeasor's insurer. Based on my judicial, legal, and practical  
9 experience and common sense, I find that James River has not met its burden of establishing by a  
10 preponderance of the evidence that the amount in controversy exceeds \$75,000. Consequently, I  
11 must remand this action to state court.

12 I THEREFORE ORDER that this case is remanded to the state court from which it was  
13 removed for all further proceedings. The clerk of the court is instructed to close this case.

14 DATED this 22nd day of October, 2021.



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ANDREW P. GORDON  
UNITED STATES DISTRICT JUDGE